

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 12027, of Richard J. Bell, pursuant to Section 8207.2 of the Zoning Regulations, for a special exception to permit a change of non-conforming use from a retail grocery store (part of 1st floor) to general offices (part of 1st floor), and a request for the extension of the proposed non-conforming use into the balance of the first (1st) floor and all of the second (2nd) floor and basement, as provided by Sections 7104.2 and 7105.2 of the regulations, in the R-5-B zone, at the premises 300 Maryland Avenue, N.E., Lot 39, Square 783.

HEARING DATE: November 19, 1975, December 17, 1975

DECISION DATE: January 16, 1976

FINDINGS OF FACT:

1. The subject building is a two (2) story brick townhouse with a basement and a two (2) car garage. The building is vacant and has been condemned by the Board for Condemnation of Insanitary Buildings.

2. Certificate of Occupancy B-25507 was issued on September 21, 1960, for use of a portion of the first (1st) floor as a grocery store. The second (2nd) floor of the building was an apartment.

3. Applicant proposes to restore the exterior of the building with no structural alterations in order to preserve the townhouse character of the neighborhood while using the building for general offices. Applicant expects no commercial signs to be placed on the building, but will allow a small plaque for identification. There will be no neon signs and the lighting used will be compatible with the neighborhood while providing pedestrian safety.

4. The proposed building is located in a residential neighborhood consisting mainly of row houses and apartment houses. Within 1½ to 2 blocks of the building is located a commercial zone with large office uses.

5. In Board of Zoning Adjustment Order No. 10011, the Board granted a change of non-conforming use for the subject property from a grocery store to an office for television production and an extension of the office use throughout the building. A certificate of occupancy for the office use was never obtained.

6. There was both support and opposition for the application. The record reflects letters and a petition in support from owners and occupants of property in the immediate area and neighbors testified in support at public hearing. The support was based upon the opinion that the general office use would create less noise, traffic, trash and other deleterious effects than a grocery store. The hours of operation will be conducted during normal business hours with only occasional use on weekends. Proposed landscaping will also protect the neighboring property.

7. Capital Hill Restoration Society supported the application subject to four (4) conditions:

- (a) The Building shall be restored in a manner compatible with the surrounding neighborhood.
- (b) The exterior of the building shall be illuminated at night in a manner compatible with the surrounding neighborhood.
- (c) No more than 15 fulltime employees shall work in the building at any one time.
- (d) The existing garage located in the rear shall be repaired or replaced in order to provide accessory parking for the building.

8. There was also opposition to the application in the form of letters and a petition from owners and occupants of property in the immediate area. There was testimony in opposition, at the public hearing, a portion of which objected only to the extension of the non-conforming use, not the change of use to a grocery store. The Board finds no merit in opposition's argument that a simultaneous change of an existing non-conforming use and extension of the proposed non-conforming use is not allowed. Pursuant to the Zoning Regulations. Opposition also objected to potential parking problems and the availability of a commercial zone permitting a general office use nearby.

9. Capital Hill Southeast Citizens Association opposed the application on the basis that the residential quality of the neighborhood will be disturbed by transient persons not sharing community interests and by parking problems.

10. The staff Report of the Zoning Services Division of the Municipal Planning Office and subsequent testimony at public hearing recommended approval of the application. The testimony noted that the structure will be compatible with the residential neighborhood, two (2) parking spaces would be required by the applicant although none is required and no illuminated signs would be placed on the building.

CONCLUSIONS OF LAW:


Based upon the above findings of fact and conclusions of law the Board finds that the Zoning Regulations pursuant to Sections 7104 and 7105 do permit a change and extension of a non-conforming use and there is no language therein which the Board interprets to prohibit a simultaneous change and extension of non-conforming use. Also the Board finds pursuant to Section 7104 of the regulations that the proposed change is permissible as a grocery store is permitted as a matter of right within a C-1 district and a general office use is also first permitted in the C-1 district. The Board concludes that there will be no noise trash or other deleterious effects created by the proposed non-conforming use and the special exception can be Granted with no adverse affect on the neighboring property.

IT IS THEREFORE ORDERED, THAT THE ABOVE APPLICATION BE, GRANTED.

By a Vote of 3-0 (Harps and Lewis to Grant, McCants to Grant voting by proxy, McIntosh not voting not having heard the case and Cummings not present to vote.)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: \_\_\_\_\_

  
STEVEN E. SHER

Acting Secretary to the BZA

FINAL DATE OF ORDER: \_\_\_\_\_

**FEB 23 1976**

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

Before the Board of Zoning Adjustment, D. C.

Application No. 12027 of Richard J. Bell, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception to permit a change of non-conforming use from a retail grocery store (part of first floor) to general offices (part of first floor) and for the extension of the use to the balance of the first floor and all of the second floor and the basement as provided by Sub-sections 7104.2 and 7105.2 in the R-5-B District at the premises 300 Maryland Avenue, N. E. (Square 783, Lot 39).

HEARING DATES: November 19, 1975 and December 17, 1976  
DECISION DATE: January 14, 1976 and March 27, 1976  
DISPOSITION: Application granted by a vote of 3-0 (William S. Harps, Walter B. Lewis and Leonard L. McCants to GRANT, William F. McIntosh not voting not having heard the case, and Lilla Burt Cummings, Esq. not present not voting).

FINAL DATE OF THE ORDER: February 23, 1976

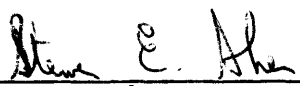
ORDER

Upon consideration of the opposition's Motion for Reconsideration, and/or Rehearing, dated March 8, 1976, and the response of the applicant thereto, dated March 15, 1976, the Board finds that the motion fails to state an acceptable basis of error on the part of the Board to support a Motion for Reconsideration, to identify new evidence which is the basis of a motion for rehearing and to raise substantial questions of fact which would warrant rehearing of the matter. It is therefore ordered that the Motion for Reconsideration and/or Rehearing be DENIED.

VOTE: 3-0 (Leonard L. McCants, William F. McIntosh and William S. Harps to DENY, Ruby B. McZier and Lilla Burt Cummings, not present not voting).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
Steven E. Sher

Acting Secretary to the Board

FINAL DATE OF THE ORDER: APR 7 1976